
(2010) 12 AHC CK 0112
In the Allahabad High Court

Nagendra Deo S/o Mahendra Deo & Ors.	APPELLANT
Vs	
State of U.P.Thru Secretary, Technical Education & Ors.	RESPONDENT

Date of Decision : 30-12-2010

Acts Referred:

Citation : (2010) 12 AHC CK 0112

Hon'ble Judges : Anil Kumar, J

Final Decision : Allowed

Judgement

Anil Kumar,J.

Present petition has been placed by Sri Arun Kumar Srivastava, Bench Secretary, Lucknow Bench, Lucknow at my residence, taken up at 04:30 p.m. today, in view of the order passed by Hon?ble the Senior Judge, Lucknow Bench, Lucknow.

Heard Sri Sangam Lal Pandey, learned counsel for the petitioners and Sri Manjiv Shukla, learned counsel for the State of U.P./Opposite Party No. 1.

Learned counsel for the petitioners submits that he has contacted Sri Lalit Shukla, Advocate, Standing Counsel of Technical University, Lucknow on telephone but he is out of station so could not available today.

Issue notice to the Opposite Party Nos. 2 to 4.

As prayed, learned counsel for the petitioners in addition to regular mode of service, he is permitted to serve O.P. Nos. 2 to 4 outside the court for which office is directed to issue necessary dasti summon fixing 06.01.2011 as next date.

The petitioners, who are regular students of B. Tech. (Electrical and Electronics) studying in the institution known as Saroj Institute of Technology and Management, Ahimamau, Sultanpur Road, Lucknow (hereinafter referred as ? Institution?) are not allowed to appear in Vth Semester examination already commenced from 28.12.2010 filed the present petition praying therein that they may be allowed to appear in the next papers of the said examination.

Learned counsel for the petitioners for the purpose of interim relief submits that the petitioners fulfilled all the requisite formalities, as well as they had already deposited the necessary fees in order to enable them to appear in Vth Semester examination of B. Tech. (Electric and Electronics) conducted by University in question. However, admit cards have not been issued to them, as such they had approached the institute for redressal of their grievances but no heed has been paid so far, hence the present writ petition has been filed.

Learned counsel for the petitioners on the basis of pleadings made in paragraphs no. 11 and 12 of the writ petition submits that petitioners fulfil the requisite number of attendance in order to enable them to appear in the examination, and not being debarred by any order of the Institution/Technical University to appear in the examination in question.

He further submits that neither any reasons/show cause nor any opportunity has been provided to the petitioners prior to debarring them from appearing in the examination in question.

Accordingly, it prayed by the learned counsel for the petitioners that taking into consideration the present era of competition they be allowed to appear in the next papers of Vth Semester B. Tech course; otherwise their future/career will be ruined.

Sri Manjiv Shukla, learned Standing Counsel appearing on behalf of the Opposite Party No. 1 submits that the State of U.P. has got no rule in the matter in question as the controversy in the instant case relates to opposite parties no. 2 to 4 who are contesting opposite parties.

I have heard the counsel for the parties for the purpose of interim relief and gone through the record.

Needless to mention that the students, who have taken admission in bachelor of technology course are required to attend all the lectures as per statutory provision. The requirement of attending all the lectures is for the benefit of students. Looking to the nature of course insistence of attending all the lectures is desirable. The object of desirability of students to attend lectures is that students should learn the course in systematic manner by listening the lecture from experienced teachers.

Further, in the case of U.P. Technical University, Lucknow Vs. Kumar Gandharva and others reported in 2003 E.S.C. (All.) 1036, the Division Bench of this Court took a view that the students who have not completed the prescribed course of study spread over the period specified in the statute or the Ordinance, should not be permitted to appear at the final examination as they cannot be deemed to be eligible for that, if the policy of the Technical University is that before appearing at the final examinations the candidate must pursue the prescribed course of studies spread over for a certain period. In deciding the said case the Division Bench also considered a case decided by Hon^{ble} Supreme Court i.e. Regional

Engineering College, Hamirpur and another versus Ashutosh Pandey J.T. 2000 (10) SC 216. In that case a student, who could not achieve the required attendance percentage, in the last semester, was stopped from appearing by the Principal of the College. But in the writ petition filed by the student, the High Court allowed him to appear in the examination, but the Hon'ble Supreme Court set aside the judgment of the High Court and upheld the decision of the Principal.

However, in the present case, as it is categorically submitted by the learned counsel for the petitioners on the basis of averments made in para 11 and 12 of the writ petition that the petitioners have got requisite attendance for appearing in the examination in question, no disciplinary action is pending against them by virtue of which they can be debarred from appearing in the examination and no opportunity have been provided to them prior to restraining them from appearing in the examination in question. So keeping in view the above said facts, the interest of justice will subserve, if the petitioners are allowed to appear in the remaining papers of Vth Semester of B. Tech examination.

For the foregoing reasons, the opposite party nos. 2 to 4 are directed to allow the petitioners to appear in the remaining papers of Vth Semester of B. Tech Examination as regular students of the Institution in question conducted by the U.P. Technical University, Lucknow but their result shall not be declared subject to further orders of this Court.

Further, Opposite Parties no. 2 to 4 are directed to produce the relevant records on the next date fixed in the matter in question.

List/put up on 06.01.2011.

This matter shall not be treated as tied up to me.